

# Employment Issues in Social Media

Including some Special Considerations for  
Government Employees and Employers

Travis County Professional Development Day

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October 23, 2019

# Social Media: Likes and Dislikes



# Show of Hands: What's your favorite Social Media?

- ▶ Facebook
- ▶ Instagram
- ▶ Twitter
- ▶ Snapchat
- ▶ YouTube
- ▶ Myspace
- ▶ Tumblr
- ▶ Reddit

# What do you like about social media?

- ▶ Stay in touch with friends and family.
- ▶ Stay up-to-date on news and current events.
- ▶ To fill-up spare time.
- ▶ To find funny or entertaining content.
- ▶ General networking.
- ▶ Because your friends and family are already there.
- ▶ To share photos or videos
- ▶ To share opinions
- ▶ To meet new people or find new products.
  - ▶ Source: Wersme.com

# Who's deleted or stopped using a social media account: why?

- ▶ Takes too much time.
- ▶ Privacy concerns.
- ▶ Tired of negative posts.
- ▶ Don't trust the companies that run social media.
- ▶ Don't want to know so much information about friends and family.
- ▶ Others?

# Social Media: Positives and Negatives

- ▶ **Positives:** great way to keep in touch with friends and family, celebrate good times, offer support during hard times, study news stories and social trends, get a good laugh, learn about charitable causes. Others?
- ▶ **Negatives:** People get carried away! They say things online they wouldn't say in person; share confidential information; take credit of something that they didn't do; make it look like someone else endorsed their actions. Others?
- ▶ **Results:** What is posted on Social media can bring people close, but can sometimes harm friendships, families, social groups and working groups.

# Social Media and the Workplace

- ▶ When negative behavior on social media leads to disruption in the workplace, such action may violate policy or common sense decorum. This may be true whether the negative behavior is occurring on a work sponsored social media account or on a personal account.

# Social Media: Here's the Problem

- ▶ “Facebook and Twitter have become the 21<sup>st</sup> Century watercoolers, where workers flock to grouse, joke or vent. These are conversations that previously would have happened in someone’s home or in a bar or on a soccer field and it would have gone under the radar. But in today’s hyper-connected culture an online comment or photo can spread like wildfire from one co-worker to another and then to multitudes of strangers.”
- ▶ Source, SHRM’s HR Magazine Sept/Oct. 2018, “A Tweet too Far.” (internal quotations omitted).



# Same Humans; New Technology



# General Suggestions Regarding Social Media Use

- ▶ Employees should refrain from identifying themselves as representing the employer or their employer's views unless they are authorized to do so. Consider whether to identify you're a Travis County employee to avoid an unintended inference.
- ▶ Employees should preface any opinions about their work or industry with the disclaimer, that these views are their own.
- ▶ Employees may not share proprietary or confidential information. EVER!
- ▶ Employees may not post anything threatening, harassing, bullying or defamatory that could contribute to a hostile work environment by disparaging others based upon protected status: race, ethnicity, gender, sexual orientation, etc.
- ▶ Source, SHRM's HR Magazine Sept/Oct. 2018, "A Tweet too Far."

# Special Issue for Gov't Employees: 1<sup>st</sup> Amendment

- ▶ Protects speech of Gov't employees under limited circumstances: speech on a matter of public concern.
- ▶ But courts balance protections against potential for disruption in the workplace.
- ▶ To ascertain public concern, Courts consider the content, form and context of the speech.
- ▶ Speech made in furtherance of personal employer-employee dispute is **not** protected.
- ▶ Speech made as part of a government employee's job may **not** be protected.
- ▶ See Sp. Ct. cases: *Pickering v. Bd of Educ.*, 1968; *Connick v. Meyers*, 1983; *Garcetti v. Ceballos*, 2006; *Lane v. Franks*, 2018.



# Travis County Policies

- ▶ Travis County Policies, and common sense, limit certain types of online behaviors that are unfortunately becoming more commonplace including harassment, sharing of confidential information or work areas, and inappropriate use of governmental webpages and logos.

# Potential Violation of the Harassment Policy

## **109.129 Policy Against Harassment**

(a) It is the policy of the County to provide a respectful working environment free from unwelcomed conduct, either physical or verbal that is based upon membership in a protected class or that adversely affects a term or condition of employment

Even though harassing speech regarding a coworker may occur on line on a personal social media page doesn't mean that the behavior can't trigger this policy especially if such harassment starts to affect workplace relationships or otherwise lead to disruption in the workplace.

# Travis County Social Media Policy

## 110.091 Social Media Use

**Any creation of new social media account used to represent Travis County must be coordinated through the Travis County ITS WebTeam. This applies only to County departments that report directly to Commissioners Court. This does not apply to Elected Officials.**

**Social media used to represent Travis County belongs to Travis County. Posts that contain confidential information, such as personally identifiable information (PII) or protected health information (HIPAA) are prohibited.**

# Departmental Policies on Social Media

- ▶ Many Travis County Departments have their own social media policies that address employee online behavior vis-à-vis the type of work performed by that department.
- ▶ What follows are two examples:



# Sample of a Departmental Policy on Social Media

## ▶ POLICY

- ▶ It is the policy of this Office that all employees will exercise good judgment when participating in social media. Employees are to be ever mindful that their conduct associated with such networks is governed by our code of ethics, all policies, rules and laws regardless of whether they are on or off duty. The unauthorized business use or inappropriate personal use of social media could result in disciplinary action.

# Sample of a Departmental Policy on Social Media

- ▶ Department and its workforce members will maintain effective electronic communications that are consistent with the Travis County beliefs and workforce standards. The guidelines contained within this policy apply whether or not you are using Travis County tools to IM, text, or email or whether you are using the internet as part of your job or for personal social networking that involves Travis County references.
- ▶ This policy is based on the “3 Rs of Electronic Engagement” as follows:
  - ▶ Be clear about whom you are **representing**.
  - ▶ Take **Responsibility** for ensuring that any references to Travis County are factually correct and do not breach confidentiality requirements.
  - ▶ Show **Respect** for the individuals and communities with whom/which you interact.

# Commonplace Social Media Problems in the workplace

- ▶ Online bickering between coworkers that leads to disruption in the workplace.
- ▶ Posting photographs of confidential workplace areas or materials.
- ▶ Failing to differentiate between personal opinions or statements and those made as a government employee.
- ▶ Posting pictures or other materials that make it appear as if the governmental unit endorses certain activities or actions.
- ▶ Posting details you would not want co-workers or supervisors to know.



# Commonplace Social Media Problems in the workplace

- ▶ Posting pictures of co-workers without their permission
- ▶ Taking inappropriate photos of coworkers and posting.
- ▶ Posting of employer seal or logo on a personal account to make it look as if government employer is endorsing your post.
- ▶ Use of offensive memes associated with pictures of colleagues, work events or workplace logos.
- ▶ Online jokes or other banter with colleagues that is not being received as funny or welcomed.

# Closing: Social Media and Common Sense

- ▶ Here's a take away: remember the Three R's of electronic engagement? Those three plus two more are helpful.
- ▶ **When positing on Social Media employees should:**
- ▶ Be clear about whom they are **Representing**.
- ▶ Take **Responsibility** for ensuring that any references to Travis County are factually correct; further do not breach confidentiality requirements.
- ▶ Show **Respect** for the individuals and communities with whom/which employees interact.
- ▶ Employees and supervisors should also carefully **Review** Travis County policies and their own departmental policies for any special concerns or restrictions pertaining to social media.



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▶ Questions?

▶ Thank you for your time and attention!